IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6744 OF 2005

Shri Bhalchandra Mohaniraj Phatak : Petitioner

V/s.

Joint Charity Commissioner, Pune & Ors. : Respondents

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Mr.S. Kshirsagar for the petitioner.

Mr.A.H.Palekar, Asstt. Govt. Pleader, for the respondent nos.1 & 2.

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CORAM : S.A. BOBDE, J.

October 5, 2005.

P.C.:

1. By this petition, the petitioner has challenged the order dated 20.9.2005 passed by the Joint Charity Commissioner, Pune Region, Pune, refusing to transfer the petitioner's application under section 50A of the Bombay Public Trusts Act, 1950, for amendment of the scheme of the trust in question. The petitioner had invoked the power of the Charity Commissioner under rule 36(iii) of the Bombay Public Trusts Rules, 1951.

2. It appears from the application for transfer that the

only reason for transfer given by the petitioner is that the learned Deputy Charity Commissioner stated from the dais that what has happened in the earlier proceedings cannot be forgotten by any of the parties. Upon query by the Court, the learned counsel for the petitioner submitted that the reference is presumably to the fact that earlier by an order dated 9.6.2005, the Joint Charity Commissioner had transferred an application from the file of the Deputy Charity Commissioner to the Asstt. Charity Commissioner on the ground that the latter is seized of a connected application in relation to the same election process. Admittedly, the earlier order is not passed on the basis of any apprehension or bias by the petitioner. In fact, the Deputy Charity Commissioner has stated to the Joint Charity Commissioner, when his remarks were called for, that he has no prejudice and would not grudge it if the matter is transferred to any other authority. Having regard to the circumstances of the case, I am of view that the Joint Charity Commissioner has rightly refused to transfer the matter from the file of the Deputy Charity Commissioner to the Asstt. Charity Commissioner.

3. The learned counsel for the petitioner submitted that certain orders have been passed in unusual haste by the Deputy Charity Commissioner. The petitioner is certainly

at liberty to challenge those orders, in accordance with law, as may be advised.

4. This order shall not prevent the petitioners from applying for consolidation of connected matters in regard to the same trust as may be advised.

5. In the result, the petition is dismissed.

S.A. BOBDE, J.